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# SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair  
2015 - 2016 Regular

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**Bill No:** AB 752  
**Author:** Salas  
**Version:** April 23, 2015  
**Urgency:** No  
**Consultant:** Olgalilia Ramirez  
**Hearing Date:** July 1, 2015  
**Fiscal:** Yes

**Subject:** Private postsecondary education: California Private Postsecondary Education Act of 2009

## SUMMARY

This bill establishes a deadline for which the Bureau for Private Postsecondary Education (BPPE) must review the list of examinations prescribed by the United States Department of Education (USDE) and to approve an alternative examination for ability-to-benefit (ATB) students with limited English proficiency, if the BPPE determines there is no examination appropriate for these students.

## BACKGROUND

- 1) Existing law establishes the California Private Postsecondary Education Act (Act) of 2009, which provides for the approval, regulation, and enforcement of private postsecondary educational institutions. Among other things, the Act requires that, before an “ability-to-benefit” student (defined as a student without a certificate of graduation from a school providing secondary education) may execute an enrollment agreement, the institution shall have the student take an independently administered examination from the list of examinations prescribed by the USDE pursuant to federal law, and prohibits the student from enrolling unless the student achieves a score, as specified by the USDE, demonstrating that the student may benefit from the education and training being offered. (Education Code § 94904)
- 2) Existing law also requires that an enrollment agreement be written in language that is easily understood and that if English is not the student’s primary language, and the student is unable to understand the terms and conditions of the enrollment agreement, the student shall have the right to obtain a clear explanation of the terms and conditions and all cancellation and refund policies in his or her primary language. Current law also requires that if the recruitment leading to enrollment was conducted in a language other than English, the enrollment agreement, disclosures, and statements must also be in that language. (EC § 94906)

## ANALYSIS

This bill:

- 1) Requires the BPPE, by July 1, 2016, to review the list of existing examinations prescribed by the USDE for the purposes of testing students without a high school diploma or equivalent.

- 2) Requires the Bureau for Private Postsecondary Education (BPPE) to approve an alternative examination for students with limited English proficiency provided that the BPPE determines there is no examination appropriate for these students.
- 3) Specifies that when the BPPE approves the alternative examination it may consider the Comprehensive Adult Student Assessment System examination.

## STAFF COMMENTS

- 1) **Need for the bill.** According to the author, many working adults without a high school diploma are seeking to enroll in job training programs but struggle to pass the United States Department of Education (USDE) approved ability-to-benefit (ATB) examinations. The author asserts that this problem is disproportionality impacting those with limited English proficiency and low-income communities. Current law enacted in 2012, authorized the BPPE to publish a list of alternative exams if the USDE does not have relevant exams. The BPPE has yet to publish the list. This bill attempts to provide English learners taking the ATB examination with an appropriate alternative for training programs by establishing a deadline for the BPPE to publish a list of alternative examinations.
- 2) **Ability-to-benefit (ATB).** Current law defines “ability-to-benefit,” a student as a student who does not have a certificate of graduation from a school providing secondary education, or a recognized equivalent of that certificate. An institution is required, prior to executing an enrollment agreement with an ATB student, to have the student take and pass an independently administered examination from the list of examinations prescribed by USDE. According to the author some non-English based training programs do not have relevant USDE-approved tests for English learners as such this clarification and exam alternatives are needed. The BPPE was authorized in 2012 to review and publish the list of alternative exams and it is unclear why the agency has yet to follow through with the legislative directive.
- 3) **Comprehensive Adult Student Assessment System (CASAS).** This bill allows the BPPE to consider CASAS as an alternative examination. CASAS offers competency based examinations designed to assess the basic skills of adult learners including non-native speakers. These assessments have been used by federal and state government agencies, business and industry, community colleges, among other entities.
- 4) **Prior legislation.**

SB 675 (Wright, 2011) would have required that private postsecondary education institutions subject to the California Private Postsecondary Education Act of 2009 (Act) administer a test of English language proficiency to a nonnative speaker of English, as defined, prior to enrolling the student. SB 675 died in the Senate Business Professions and Economic Development Committee.

AB 1889 (Portantino, 2010) enacted several changes to the California Private Postsecondary Education Act and the related oversight provided by the BPPE for Private Postsecondary Education including authorizing to publish a list of eligible

examinations appropriate for English language learners. AB 1889 was vetoed by Governor Schwarzenegger whose veto message read in part:

***“Among many other provisions, this bill would require an Executive Branch agency to follow specific staffing requirements prescribed by the Legislature. This is both an inappropriate and unacceptable action to micro-manage and burden the implementation of regulatory policy.”***

AB 1013 (Higher Education Committee, 2011) clarifies provisions of the California Private Postsecondary Education Act and the related oversight provided by the Bureau for Private Postsecondary Education (BPPE). This bill allows the BPPE to publish a list of eligible examinations if the United States Department of Education (USDE) does not have a relevant examination.

**SUPPORT**

None received.

**OPPOSITION**

None received.

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